Calendar No. 4

99TH CONGRESS *1st Session*	SENATE	REPORT 99-2

INTERSTATE HIGHWAY FUNDING ACT OF 1985

REPORT

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

TO ACCOMPANY

S. 391

FEBRUARY 5 (legislative day, JANUARY 21), 1985.—Ordered to be printed

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FEBRUARY 5 (legislative day, JANUARY 1), 1985.—Ordered to be printed

Mr. SYMMS, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 391]

The Committee on Environment and Public Works, reports an original bill (S. 391) to approve the Interstate and Interstate Substitute Cost Estimates, to amend title 23 of the United States Code, and for other purposes and recommends that the bill do pass.

GENERAL STATEMENT

The Surface Transportation Assistance Act of 1982 (STAA of 1982) provided authorizations for the Interstate construction program through fiscal year 1990 and the other Federal-aid highway categories through fiscal year 1986. A policy was continued in the STAA of 1982 which directs that before Interstate construction funds can be apportioned to the States, Congress must approve an Interstate Cost Estimate (ICE). In addition, the STAA of 1982 included a new provision which required Congress to approve an Interstate Substitute Cost Estimate (ISCE) before Interstate substitute funds can be released to the States.

In the past, Congress has generally approved an ICE for two years. States are required to update this Interstate cost completion information and submit it to the Department of Transportation every two years. The STAA of 1982 also required the States to submit information to the Secretary regarding Interstate substitute projects. In the past, approval of the ICE has been a fairly routine matter. However, during the past two years Congress has had difficulty in reaching agreement on an ICE and ISCE approval.

The Committee reported H.R. 3103 on September 29, 1983, which approved a two-year ICE and ISCE. This was subsequently passed by the Senate. Because of other controversial issues, however, Con-

gress was unable to complete action on H.R. 3103 and approve the ICE and ISCE. A compromise was finally reached and legislation was passed and signed into law on March 9, 1984 as P.L. 98–229, which released slightly more than one-half of the Interstate construction, Interstate substitute and minimum allocation funds available in fiscal year 1984.

The Committee began a series of hearings on the Federal-aid highway program on February 1, 1984. S. 2527 was introduced on April 3, 1984, and reported by the Committee in June. S. 2527 was considered by the full Senate in October 1984. Because of several filibusters during floor consideration, S. 2527 was hopelessly mired in parliamentary difficulties. The Committee then reported an original bill, S. 3024, which was very similar to S. 2527. S. 3024 was passed by the Senate on October 4, 1984. The conference committee was unable to reach agreement and, therefore, no legislation was enacted and no further Interstate construction, Interstate substitute, or minimum allocation funds were released.

The Committee continues to be very concerned about the delay in releasing these funds to the States. Over $2.6 billion was made available in March 1984. However, these funds should have been available more than 5 months before that—on October 1, 1983. An additional $2.1 billion that should also have been available October 1, 1983 has not yet been released and still another $5 billion should have been released on October 1, 1984. The purpose of multi-year authorizations for the Federal-aid highway program is to assure stable, reliable long-term funding so States can do the planning necessary for large, costly projects. The inability of Congress to release these funds at the time when States have been assured they would be available, has had a detrimental effect on the highway program.

In order to emphasize the urgency of passing ICE legislation, the Chairman of the Committee and the Chairman of the Subcommittee on Transportation together with several other Senators introduced highway legislation, S. 178 and S. J. Res. 8, on January 3, the first day of the first session of the 99th Congress.

In order to preclude delays in releasing highway funds in the future, S. 178 and S. J. Res. 8 both contained provisions which direct the Secretary of Transportation to release the Interstate construction and substitute funds administratively if Congress has not acted by October 1 to approve an ICE and ISCE. The administrative release provision was also contained in highway legislation introduced and passed by the Senate last year. The process would continue to work much as it does now. The States would still be required to submit an updated ICE and ISCE every two years to the Secretary of Transportation. The Secretary would submit them to Congress on January 1. Congress would then have from January 1 to October 1 to review the ICE and ISCE and make any changes. If Congress has not acted by October 1, the Secretary would administratively release these funds to the States. Congress, of course, would not be precluded from acting after October 1 if it so desired. The Committee believes this process will preserve Congress' oversight responsibilities and at the same time assure the successful and timely completion of the Interstate system.

During Committee consideration of S. 178 and S. J. Res. 8, two major changes were made. The Committee recognizes that reducing the Federal budget deficit is Congress' highest domestic priority this year. Failure to bring the deficit under control will result in rising interest rates, a further decline in investment, higher unemployment and a decline in U.S. trade abroad.

The argument is often put forward that the highway program is a dedicated user fee program financed from a trust fund that has a $10 billion balance and should, therefore, be immune from any efforts to control Federal spending. the Highway Trust Fund is, however, part of the unified budget and the level of highway spending does have an impact on the Federal deficit. Currently highway spending exceeds revenues coming into the Highway Trust Fund on a yearly basis. The levels of spending authorized by the STAA of 1982 cannot be maintained far beyond fiscal year 1986 without further tax increases or significant reductions to the program in the near future. This will occur even earlier if new spending is authorized this year beyond the authorizations in the STAA of 1982.

The Committee came to the conclusion that if the effort to reduce the Federal deficit is to be successful, every Federal spending program must be reviewed and bear its share of the reductions necessary to assure a healthy economy. The Committee also concluded that action to control spending in the highway program must be taken now and not delayed until other Committees have acted or the entire Congress has agreed on what steps should be taken to reduce the deficit. The Committee believes it is important to show how serious the commitment is to reducing the deficit. Since the Committee had highway legislation before it for consideration, it believes this is the appropriate time to also review the spending levels of the program.

The Committee unanimously approved an amendment which would set the obligation limitation for fiscal year 1986 at $12.750 billion. This is a $1.7 billion reduction below the fiscal year 1986 level of $14.450 billion set by the STAA of 1982. It is a $500 million reduction below the fiscal year 1985 obligation limitation. This reduction will mean the States will have to determine which projects have the highest priority and delay some projects which have a lower priority.

The decision was made to reduce spending in the program by reducing the obligation limitation rather than specific categories in order to permit the States as much flexibility as possible in determining which projects could best be delayed with the least hardship to the total transportation program in each State. The Committee recognizes that a reduction in the highway program will possibly delay certain highway construction and repair projects in this country. However, the highway program will also benefit from an economy where budget deficits are under control. If an ICE and ISCE are not approved in the near future, the highway program will be affected by more than deficit reductions. Unless the ICE and ISCE are approved quickly, States will not have sufficient apportionments and allocations to obligate the $13.250 billion available in fiscal year 1985.

During consideration of highway legislation last year, the Committee received many requests to authorize new, special purpose

projects. Several Committee Members believed no special projects should be authorized because such authorizations could delay final enactment into law of the release of the Interstate funds, and could threaten the financial condition of the Highway Trust Fund. The Committee reached a compromise on this issue by setting forth guidelines which such projects had to meet. They were limited to a maximum Federal share of 50 percent or a total project cost of $12.5 million, which ever was less. The Committee has now determined that with staggering budget deficits and the very difficult reductions it has made in the highway program, it would be inappropriate to authorize new special purpose projects. An amendment was accepted, therefore, which eliminated the demonstration projects from the legislation which was reported by the Committee.

The Committee reiterates its strong belief that approving an ICE and ISCE is long overdue. It intends to press for expeditious consideration of this legislation by the Senate. There will be an opportunity to consider other highway issues in the near future when the entire Federal-aid highway program must be reauthorized in fiscal year 1986.

Major Provisions

INTERSTATE COST ESTIMATE AND INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

Highway apportionments are made each year on October 1, but in the case of Interstate construction funds, Congress must first approve the Interstate Cost Estimate (ICE) before the Secretary of Transportation can release those funds to the States. In the past, the ICE was routinely approved, however, since the beginning of fiscal year 1984, Congressional approval of the ICE has become increasingly difficult.

To date Congress has been able to pass only a six-month ICE approval, and even that small step did not occur until five months into fiscal year 1984. The Committee has been required, therefore, to do further legislation to approve another ICE for the remaining 18 months, i.e. the remainder of fiscal year 1985 and all of fiscal year 1986. Congressional approval of the 1983 ICE will result in the release of approximately $5.3 billion in Interstate construction funds. In addition, the 1985 ICE for fiscal years 1987 asnd 1988 has now been submitted by the Secretary and must be acted on by October 1, 1985.

The Committee recognizes an increasingly urgent need for release of the backlogged funds and for the timely release of funding that will become available for apportionment as of this October 1. States must have long-range funding security to sensibly plan large Interstate projects. The Senate has repeatedly recognized that by passing long-term ICE legislation in 1983 and again in 1984.

Over the past several years, the Committee has heard testimony from a broad range of highway interests about the vital need for additional investments in our transportation infrastructure and about the equally critical need for timely apportionment of available funding. With passage of the Surface Transportation Assistance Act of 1982, funding for the Federal-aid highway program in-

creased by more than 50 percent, beginning with fiscal year 1983. Highway users, in turn, have been paying higher taxes to finance that increased spending.

The Committee reaffirms its commitment to addressing the pressing rehabilitation and construction needs on our highway system and assuring that user fees paid by the motoring public are put to work in meeting those needs.

In the case of the 85 percent minimum allocation funds, the Committee believes that the fiscal year 1984 backlogged allocation should be computed using the apportionment of fiscal year 1985 Interstate construction funds based on the approved 1983 ICE and in accordance with the minimum allocation provision as contained in the Surface Transportation Assistance Act of 1982.

The legislation additionally provides for approval of the Interstate Substitute Cost Estimate (ISCE) for the remaining six months of fiscal year 1984 and for the entire fiscal years of 1985 and 1986. The 18 months of ISCE funding totals approximately $780 million. As with the ICE, the Committee is very concerned about the continued delay in approving the ISCE. The current disruption in the flow of ISCE funding should be ended, and in the future States should receive already-authorized substitute highway and transit funding in a timely, reliable manner.

Section 108 of the legislation provides an additional period of availability of one year for the fiscal year 1985 Interstate construction funds and the fiscal year 1984 Interstate substitute funds. Because there has been a delay in approving the 1983 ICE and ISCE and these funds have not yet been released, it will be difficult for the States to obligate these funds before they are scheduled to lapse. The Committee believes it would be unfair to penalize the States because these cost estimates were not approved in a timely manner.

ADMINISTRATIVE RELEASE OF INTERSTATE AND INTERSTATE SUBSTITUTE FUNDS

The Committee recognizes the effectiveness of the long-standing Federal-State partnership in implementing the Federal-aid highway program and is concerned that that relationship and the health of the overall program not be jeopardized. It is important that Interstate construction, Interstate substitute, and also the 85 percent minimum allocation funds be made available to the States on schedule at the beginning of each fiscal year. Delays and uncertainty should be avoided if transportation project planning is to be done properly and cost effectively. The Committee has therefore approved an administrative release to operate annually for these funds.

The current procedure would continue. The States are required to submit an updated ICE and ISCE every two years. The Department of Transportation would continue to review the States' submissions to make certain that only eligible items are included. The Secretary is required to submit the ICE and ISCE to Congress in January every two years. Congress would have from January to October to review the cost estimates and make any changes it desired. If Congress has not acted by October 1, the legislation directs

the Secretary of Transportation to make the necessary adjustments to the ICE and ISCE and then administratively proceed to apportion the funds each October 1. This would not preclude Congress from making changes to the cost estimates whenever it so desired. It would, however, provide assurances that the States would not be penalized and that the program would nct suffer while Congress made its decision.

OBLIGATION LIMITATION

Outlay reduction

Most Federal programs are subject to an annual review by the appropriations process. Highway projects have a multi-year planning, design and construction horizon which makes an annual appropriation impractical. Therefore, unlike other Federal programs, highway programs are approved and funds are made available for a two year or longer period of time. In order to make the highway program responsive to fluctuating fiscal situations and prevailing economic policy, an obligation limitation is imposed that prescribes the amount of funds that can be obligated each fiscal year. The limitation does not reduce the total authorization of funds nor specify which projects receive funds. The limitation has the effect of controlling the outlays in a specific year and, therefore, controlling the cash outflow from the Highway Trust Fund.

The Surface Transportation Assistance Act of 1982 (STAA of 1982) established an obligation limitation of $14.45 billion for fiscal year 1986. In preparing the Interstate Highway Funding Act of 1985, the Committee recognized the fact that there is a strong need to address the Federal deficit. In order to reduce deficits, the focus must be on outlays because outlays represent actual spending. The Committee believes it is important to take swift action and show a serious commitment to reducing deficits, even though highway money is provided by a user generated trust fund and does not come from general appropriations. Because the Federal government operates under a unified budget, the outlays from all sources including the Highway Trust Fund, are compared to income from all sources to determine the government's fiscal balance. Therefore, a change in spending from the Trust Fund, even though modest in scale, changes the size of the deficit. In addition, the Committee believes every program where Federal funds are spent must be reviewed and must bear its share in bringing Federal deficits under control.

The Committee established a level of $12.75 billion for fiscal year 1986 which is a $1.7 billion reduction in the obligation limitation put in place by the STAA of 1982. It is $500 million below the obligation limitation in place for fiscal year 1985. The cut is expected to produce the following reduction in outlays: fiscal year 1986—$285 million; fiscal year 1987—$891 million; fiscal year 1988—$258 million, for a total reduction in outlays of $1.4 billion over a three year period.

The Byrd amendment

Early in the history of the Highway Trust Fund, growing concern about maintaining a positive balance in the fund resulted in

passage of the Byrd amendment. The amendment provides that if at the end of any fiscal year the level of authorized but unobligated funds exceeds projected fund revenues for the next two years, the Secretary of Transportation shall reduce the subsequent distribution of apportioned funds on a proportionate basis.

According to the Congressional Budget Office (CBO), using the fiscal year 1986 $14.45 billion obligation limitation established in the STAA of 1982 and projecting future years by adjusting that figure for inflation and projecting trust fund income based on Department of Treasury forecasts of receipts and CBO interest rate assumptions, the Byrd amendment will be triggered at the end of fiscal year 1987. Therefore, apportionment distributions would be reduced in 1988. Because these rates can fluctuate, assuming the possibility of significant error in inflation rates, income forecasts or interest rate assumptions, it is possible for the Byrd amendment to be triggered as early as fiscal year 1986. The obligation limitation reduction made by the Committee minimizes that possibility and further ensures that the Highway Trust Fund will remain solvent. The Federal-aid highway program must be reauthorized in 1986 and both the Highway Trust Fund and the level of Federal-aid highway spending will be reviewed at that time.

Emergency Relief State Match

The Committee is concerned with the provision of 100 percent Federal funding for emergency relief project work beyond the initial repair stage. There is justification for funding at a 100 percent Federal share for the first 30 days following the occurrence of a major highway emergency. During this period of time, it is appropriate for the Federal government to provide full assistance in restoring essential services, removing debris, and establishing temporary transportation facilities.

For those repair components relating to permanent restorative work done following the initial 30-day emergency period, the Committee believes a State match should be required. The applicable match will be determined by the existing Federal-State system match under the regular Federal-aid highway program. Therefore, the Federal share will be 90 percent on the Interstate system, and 75 percent on the primary, secondary, and urban systems.

The Committee views cost sharing among Federal, State, and local governments as a means for ensuring prudent decisionmaking in the long-term restoration and replacement efforts which follow the preliminary emergency repair work. A State must be prepared to provide a 10 or 25 percent match—depending on the highway system affected—as a condition for the provision of Federal emergency relief.

The match requirement, however, will apply only to natural disasters and catastrophic failures, as defined in law, which take place after the legislation is enacted. The provision of emergency relief prior to the date of enactment would be according to the matching share in effect at the time of the disaster or failure.

The Committee does not intend for the 30-day requirement to be inflexible. The 30 days will begin to run when a disaster is declared, which initiates the emergency relief action. However,

during the time when the disaster is ongoing and before the declaration is made, the Federal Government may participate in any necessary emergency work.

OFF-SYSTEM BRIDGE PROGRAM

The State of Tennessee has undertaken a demonstration program involving off-system bridge replacement and rehabilitation. Under this approach, which was permitted under the Surface Transportation Assistance Act of 1982, Tennessee has been able to replace a total of 1,212 small, off-system, antiquated bridges over the two-and-one-half years of the demonstration program.

The Tennessee demonstration has successfully fostered needed bridge improvements on non-Federal-aid routes. Under the demonstration program, Tennessee was allowed to credit its State-only financed off-system bridge replacement and rehabilitation towards the State share of the Federal-aid bridge program. The work has been limited to non-controversial, low-cost bridge projects not on a Federal-aid highway system. After replacing and rehabilitating these types of off-system bridges with State funds only, Tennessee applied the amount in excess of its 20 percent State match to other Federal-aid bridge projects.

The Committee believes that Tennessee's experience has been valuable and that this approach for addressing the major off-system bridge problem should be made available to all States. Extending these provisions nationwide should result in a significant benefit to the bridge replacement and rehabilitation program. As in the demonstration project carried out in the State of Tennessee, the replacement and rehabilitation of these bridges must be carried out in accordance with all standards applicable under Section 144 of title 23, and would be limited to non-controversial, relatively low-cost, off-system bridges.

WOMEN BUSINESS ENTERPRISES

Section 113 makes Women Business Enterprises (WBE) a presumptive Disadvantaged Business Enterprise (DBE) only for the purpose of section 105(f) of the Surface Transportation Act of 1982.

The Committee believes that equal opportunities for effective and meaningful participation must be available to women in Federal and Federally-assisted highway construction work. It is the intention of this language that prime contractors performing Federal-aid highway construction contracts will now be able to utilize WBEs to meet their DBE contract goals. The Committee does not intend that the overall DBE requirement set by section 105(f) of the 1982 STAA be increased by the Department of Transportation as a result of the inclusion of WBEs as a presumptive group eligible for section 105(f).

Further, the Committee encourages the Secretary of Transportation to aggressively enforce the Federal laws which prohibit discrimination on the basis of sex and to make a determination that every State highway agency is in compliance as well.

Affirmative efforts by the Secretary are essential and are being taken to meet existing employment requirements for women for construction jobs on Federally-assisted highway projects. Addition-

ally, the Committee believes that inclusion of WBEs as a presumptive group eligible for section 105(f) will provide increased opportunities for women business owners in the construction industry.

TOLL FACILITY DEREGULATION

The Federal Government currently regulates 92 bridges through legislation in four bridge acts passed from 1899 to 1972. There are a total of 295 crossings of navigable waters in the United States on which tolls are collected. The Federal government does not regulate tolls on 203 of these crossings. There appears to be no consistency in determining which facilities are subject to Federal regulation and which are not. In testimony before the Committee an example was cited in New York where a bridge's westbound span was not regulated and the eastbound span was regulated.

Of particular concern to the Committee was the requirement that the Secretary of Transportation approve toll increases on these regulated bridges. Since only a small number of the bridges are regulated and others go unregulated, the administrative burden imposed by the existing requirement seemed unnecessary. The action of the Committee removes the Secretary of Transportation and the Federal Highway Administration from any review of tolls on these bridges. This deregulatory action should be an effective tool in easing administrative burdens for toll authorities while at the same time protecting the public who use these facilities from unreasonable toll increases.

Protecting citizens from large, unjustified toll increases is of concern to the Committee. However, most toll authorities must notify at least one or more State or local officials of planned toll increases. In addition, many States require an environmental or economic impact statement to justify any increase.

The language adopted by the Committee requires that tolls be just and reasonable, both in total and with respect to various vehicle classifications. By placing this requirement in the statute, the Committee has created a basis for which a user may commence suit in Federal court upon belief that actions of a toll authority are not just and reasonable.

TOLL REVENUES

There are publicly and privately owned and operated highway facilities on the Federal-aid system which are toll facilities. These facilities are allowed to collect tolls and in most instances are operated by toll authorities. Unless there has been special legislation or the State has entered into an agreement stating that tolls will be removed when the bonded indebtedness has been fully paid, these facilities are not eligible for any kind of Federal-aid highway funds.

The Committee is concerned about an incident which occurred recently where such a toll bridge facility collapsed and the Federal government was asked to provide funds to replace the facility. While this was a tragic situation, there is concern that if such requests continue there will be a severe impact on the solvency of the Highway Trust Fund.

Toll authorities build new facilities under the premise that no Federal funds will be required for construction, operation, mainte-

nance or replacement. Sufficient toll revenues must be collected to cover construction, operation, bond repayment, adequate maintenance and reconstruction or replacement. It has come to the Committee's attention that in some cases toll revenues from highway facilities are being used for non-highway related purposes. This is certainly a State's or toll authority's prerogative as long as there is no Federal liability for expenditures.

To preclude such requests in the future, section 114 requires a toll authority to certify to the Governor that all its toll facilities are adequately maintained and that the operator has the financial ability to replace or repair these facilities. International toll facilities or those subject to an agreement under section 129 of title 23 or section 105 of the Surface Transportation Assistance Act of 1978 are not subject to the requirements of this provision. It is intended that any free segment of highway which has use other than an approach to a toll road, or other free facility which may be owned or operated by the operator of a toll facility shall be exempted from the requirements and provisions of this section.

The Committee believes a variety of means can be used to demonstrate this ability including, but not limited to, reserve funds, ability to issue bonds, insurance, authority to increase tolls, ability to petition the State legislature, authority to transfer revenues from other activities of the toll authority, on an agreement with the State providing access to State funds in an emergency situation. In addition, a toll operator's ability to show that toll facilities are being adequately maintained should be given significant weight in the certification process.

The Governor is to report biennially beginning with Januray 1, 1986, or the first January after the State legislature meets, to the Secretary the toll facilities that have been certified and any that have not.

Within 30 days of receipt of this information the Secretary shall transmit it to Congress. Any funds used to repair or replace toll facilities covered under this section will be reduced from the State's apportionment for the following fiscal year.

RIGHT-OF-WAY DONATION

In order to encourage private sector participation in financing the construction of new highways, section 117 allows the State to credit 100 percent of the value of land donated for right-of-way to the State matching share. The donation of right-of-way is permitted under current law but the credit must be divided among the Federal and State share in the same proportion as the Federal/State system match required. The Committee has received testimony indicating that the private sector would have more incentive to participate in the construction of transportation facilities if the value of donated right-of-way could be fully credited to the State share.

This incentive is limited to the private sector and does not apply to land acquired by a Federal, State, or local government prior to the enactment of this bill and subsequently donated by such govenment to a highway project. The credit a State receives for a project may not exceed the State matching share for the project to which the donation is applied.

All provisions and protections of the Uniform Relocation Assistance Act continue to apply. The Committee emphasizes that this section applies only to voluntary donations which are made. No State or local government may engage in any coercive activities which in any way force the donation of right-of-way.

The Committee does not intend that this provision change any procedures, regulations or court decisions regarding the purchase of right-of-way for Federal-aid highway projects.

Subsection (b) of section 117 provides for donation of right-of-way in advance of the planning process for a prospective highway project. The provision will allow a landowner to donate property along a corridor which is a possible alignment for a highway project. The donation which is made in accordance with the provisions of this subsection would in no way affect the environmental requirements in the planning process.

The donation being made in advance of actual selection of alignment is intended to generate local support for a highway project and to contribute to a cost reduction with respect to the project. A donation of this type can lead to substantial reduction in the time required for acquisition of right-of-way with an earlier construction date and potential for substantially reduced costs.

So that the environmental analysis of alternative projects is not compromised by such a donation, the provision requires that all alternatives to a proposed alignment, including, the no-build option, shall be studied and considered in the environmental analysis. The Committee in providing this authority expects the State highway departments to continue project development as is currently required.

The Committee included this provision first, as an effort to reduce costs and secondly, to get the State and local interests more involved in decision-making with respect to highway projects. However, the Committee does not expect for such a donation to mean a particular alignment will be approved. If, following the planning process and appropriate environmental analysis, the particular corridor in which the donation is made is determined not to be the most feasible, the property acquired shall be revested in the grantor or successors in interest. This action will prevent projects from being built which do not serve the best transportation alternative for the area.

Subsection (c) amends the Uniform Relocation Assistance Act by inserting language which will encourage the donation or gift of real property for a highway project while in no way affecting right to compensation under the Uniform Act. The intent here is simply to provide a policy which will maximize Federal and State dollars if a landowner wishes to assist in the development of a highway project.

Subsection (d) provides that any excess value of donated lands to a project in Orange County, California may be credited to the State share of any other Federal-aid project in the State of California.

RIGHT-OF-WAY PAYBACK

In 1973 Congress provided a mechanism whereby States could withdraw an Interstate segment and create an entitlement for

Interstate Transfer funds which could be applied to either highway or transit projects. In some cases Federal funds out of the Highway Trust Fund had already been used to purchase right-of-way for these withdrawn segments. States are not required to reimburse the Highway Trust Fund if the right-of-way which has been acquired with these funds is donated for an approved public purpose.

It has been brought to the Committee's attention that a State used Federal funds to purchase right-of-way for an Interstate route which was subsequently withdrawn. Portions of the right-of-way were disposed by a sale of the land to private developers. Through a provision in an Appropriations Act, the State was permitted to keep the receipts from the sale of the land and was exempted from the repayment requirement in section 103(e)(4) of title 23.

Because of the limited resources available to the Highway Trust Fund compared to the substantial needs of the Federal-aid highway program, and because of the States' agreement to meet certain conditions in order to benefit from the provisions of the Interstate withdrawal program, the Committee does not believe such an action is good public policy or beneficial to the Federal-aid highway program.

Section 118 directs the Secretary to hold in reserve for each State eligible for funds under section 103(e)(4) of title 23, an amount equal to the Federal funds expended for the purchase of right-of-way for each withdrawn route or segment. Funds will not be reserved for any withdrawn route or segment if final disposition of the right-of-way has occurred by the date of enactment of this bill. The Secretary is to calculate each year's apportionment and allocation of Interstate Transfer grants on the total entitlement including the amount held in reserve. It is not the Committee's intent to reduce the amount made available to each State for substitute projects unless the conditions of section 103(e) are not met.

The Secretary may not release the funds held in reserve, however, until final disposition of the right-of-way purchased with Federal funds. If full or partial repayment is made by the State as required by section 103(e)(7) or the Secretary determines that under section 103(e)(5)(B) or (6)(B) repayment is not required, the Secretary must release the reserved funds.

BRIDGE STUDY

Congress' attention was focused on the condition of bridges in the United States by the tragic collapse of the Silver Bridge which killed 46 people. In response Congress established a program which allowed States to use Federal-aid highway funds for repairing and replacing unsafe bridges. In addition, the States were required to inspect their bridges and report on the condition of their bridges through the National Bridge Inventory.

Since the Federal-aid Highway Act of 1970, $12.085 billion has been authorized for the Bridge Replacement and Rehabilitation Program through fiscal year 1986. Despite this large commitment of funds, according to the Department of Transportation's Fourth Annual Report on the Highway Bridge Replacement and Rehabilitation Program, $48.9 billion is still needed to repair or replace deficient bridges.

The inspection, repair and replacement of the over 253,000 bridges which are structurally deficient or functionally obsolete continues to concern the Committee. Substantial amounts of money have been authorized for this program over the past few years and progress has been made. However, it is clear that the Federal government will be unable to provide the large amount of money needed to address the backlog of bridge needs.

For this reason, the Committee believes it is important to review the progress and effectiveness of the bridge program to date. The Committee has directed the Secretary of Transportation to conduct a study of the bridge program focusing on the following areas:

(1) an analysis of the progress made on repairing and replacing deficient bridges;

(2) a projection of future needs of the bridge program including recommendations regarding what levels of funding can be realistically provided at the Federal, State and local levels and any other sources of funding;

(3) an evaluation of the States' decision-making process in selecting bridges for repair and replacement under this program;

(4) a review of the bridge inspection program including any recommendations for change to the AASHTO "Manual for Maintenance Inspection of Bridges 1983", and for changes in the qualification requirements for bridge inspectors or the way in which State bridge inspections are carried out;

(5) a status report on the completion of the national bridge inventory including both bridges on and off the Federal-aid system;

(6) an analysis of the effectiveness of the bridge discretionary program including a review of the effect Congressional direction has had on the program through legislative history;

(7) a review of the bridge program's effect on the rehabilitation and reuse of historic bridges including specific recommendations for design and engineering standards which would apply only to the rehabilitation of historic bridges. These specific standards should be developed in cooperation with the Department of Interior, the National Trust for Historic Preservation, the National Conference of State Historic Preservation Officers, and the American Association for State Highway and Transportation Officials.

The Secretary is to report to Congress, not later than one year after the date of enactment of this Act, findings under this section.

The Committee has also directed the Transportation Research Board, in consultation with the Federal Highway Administration and the American Association of State Highway and Transportation Officials, and others having special interest and knowledge of the subject, to conduct a study on the bridge formula. This study should address at a minimum:

(1) the bridge formula's effect on gross vehicle weight, single and tandem axle weights, and the overall configuration of the truck;

(2) the effect of heavy trucks and axle loadings on the average life of the bridge;

(3) the current status of and effect of all grandfathers rights applicable to this formula including any which may be in dis-

pute between the States and the Federal Highway Administration;

(4) alternatives to the bridge formula for regulating truck weights on Interstate highway bridges;

(5) the impact of the current Federal bridge formula on the truck operators' health and the productivity and safety aspects of vehicles of different types and configurations including grandfathered vehicles and weights;

(6) the relation of the gross weights of presently existing vehicles of different types and configurations, including grandfathered vehicles and weights, to the strength capacity of bridges of different types and designs both on and off the Federal-aid system;

(7) the adequacy of present bridge design criteria and pavement design criteria to accommodate the presnt and future highway transportation requirement of the United States; and

(8) the costs involved in changing the current Federal bridge formula and pavement design to accommodate larger vehicles, including the source of funding if there are any additional costs.

The procedures used to make these assessments should include a review of the latest accepted bridge design and strenght evaluation concepts used in the United States and Canada as well as more traditional methods.

The Transportation Research Board shall make the findings of this study available to Congress no later than 18 months after appropriate arrangements have been made.

The Senate Environment and Public Works Committee does not intend that the Interstate Highway Funding Act of 1985 authorize any additional budget authority for fiscal year 1985 other than that already available to the Federal agencies affected by this legislation. The Committee intends that any fiscal year 1985 costs incurred by the study of the Bridge Replacement and Rehabilitation Program authorized by section 119(a) of this legislation are to be absorbed from existing funds.

HISTORIC BRIDGES

The United States celebrated the Centennial of the Brooklyn Bridge in May of 1983. This bridge has become a symbol of our country's heritage—as an engineering feat, as a vital transportation link, as a work of art, and as an important part of our history. It has also served to focus attention on the preservation of historic bridges in this country.

There are over 564,000 bridges in the United States. Less than 1,000 are listed on the National Register of Historic Places. Another 1,000 bridges may be eligible for listing which have not yet been studied and nominated.

Many States and localities have demonstrated that there are historic bridges which are structurally sound and can remain useful as a transportation facility. Often the preservation of such a bridge is less costly than demolition and replacement.

Citizens across the country recognize the value of preserving historic bridges. Not only are they of value to the transportation

system, but also in many cases to the economic well-being of a community either as a tourist attraction or a point of interest which attracts further economic development.

The Committee believes that the preservation of historic bridges should be encouraged wherever possible. In order to do that, it is important to clarify how funds authorized by the Bridge Replacement and Rehabilitation Program may be used by the States to enhance the preservation of historic bridges.

First, this provision clarifies that a State may use its Federal-aid bridge funds for any reasonable costs associated with actions to mitigate harm to an historic bridge which remains in service to accommodate the highway system of which it is an integral part.

Secondly, it provides that if an historic bridge is eligible for demolition with bridge funds, a State could use Federal-aid bridge funds in an amount equal to the cost of demolition of the historic bridge for a use which would preserve the bridge. This would include uses such as a bicycle or pedestrian crossing or use in a park. The State, local or private entity would be required to enter into an agreement assuming future legal and financial responsibility for the historic bridge.

Thirdly, it provides that if an historic bridge is eligible for demolition with bridge funds, at the option of the State, reasonable costs to preserve the historic bridge are eligible for bridge funds. This is not a mandatory requirement. It is only an option provided to the State if the State wishes to use its regular Federal-aid bridge apportionments in this way. The State must agree that the bridge will be used for a public purpose and must also agree that a public entity will assume future legal and financial responsibility for the bridge.

Finally, the States are directed to identify historic bridges as they complete and update the National Bridge Inventory. States currently may use Federal-aid bridge funds to carry out the inventory and they may also use these funds to identify historic bridges on the inventory.

The Committee recognizes that it is not feasible or desirable to preserve all historic bridges. However, once an historic bridge is destroyed it can never be replaced so the decision-making process is extremely important. The Transportation Research Board has issued a study, "Historic Bridges—Criteria for Decision Making", which outlines many of these issues.

In testimony before the Committee, safety concerns were raised with regard to the older bridges which are functionally obsolete. While most bridges built 40–50 years ago will be functionally obsolete, the Committee believes historic bridges which are worthy of preservation can be safely operated if other measures are taken. These may include taking such actions as limiting traffic, posting warning signs or setting lower speed limits. Safety continues to be major concern in the construction and reconstruction of the entire Federal-aid highway system.

WILDFLOWERS

Section 122 of this legislation requires that States expend at least one-quarter of one percent of the Federal-aid highway construction

funds used for landscaping on a project for the planting of wildflowers or seedlings. This provision is included for two reasons. First, for a number of years the Committee has been involved in beautifying our Nation's roadways. In 1965 the Congress enacted the Highway Beautification Act which supplemented earlier authority for landscaping on Federal-aid highway construction projects. Secondly, the provision will reduce maintenance for highways where plantings of this nature are included in the project. Experience in one State has demonstrated the cost-cutting, water-saving and labor-saving benefits of blending wildflowers into the highway landscape. Texas, which has undertaken such a wildflower program, has reduced annual mowing costs by 24.8 percent while enhancing native vegetation.

Included in the definition of wildflowers and seedlings are the State flower and/or shrub. While the Committee recognizes that this is an important step forward in beautifying and reducing costs on our highways, there are areas of the country where the planting and maintenance of such flowers and shrubs is not practical. Upon the request of a State, the Secretary may waive the requirement for the planting of wildflowers with respect to any given highway project. The certification required for Secretarial waiver could include urban areas not conducive to wildflower growth, the planting of grasses used for farm purposes, or a climate which is not satisfactory for growth of such vegetation. The one-fourth of one percent is a minimum requirement. The Committee would expect the Secretary to approve projects which include a request for plantings which exceed the minimum one-fourth of one percent requirement.

The last sentence of the section makes it clear that voluntary donations of seeds or seedlings by the private sector are not precluded by the requirement. Such donations have been authorized administratively as a part of the Highway Beautification program. It is the Committee's intent to emphasize continued support for this type of private sector participation in the beautification of highways.

MINIMUM ALLOCATION

Section 124 of this bill amends section 157 of title 23 to authorize as permanent law the 85 percent minimum allocation provision adopted in the 1982 Surface Transportation Assistance Act. It is intended that such sums as may be necessary under this permanent provision will be authorized in the same manner as all other categorical highway programs are reauthorized. The language of this section establishes certainty for those States which participate as minimum allocation States. The Conference agreement in 1982 intended to make this provision a permanent part of title 23, but the adopted language failed to achieve this intent.

This section also clarifies the calculation used for the determination of the 85 percent minimum. This clarification will provide donor States a return closer to 85 percent of the amount they contribute to the Highway Trust Fund. Under the Surface Transportation Assistance Act of 1982, eight categories are enumerated on which the calculation is based. These are the programs which are apportioned to States by formula.

The clarification contained in this bill provides that the calculation shall be based on all categories of Federal-aid highway construction funds which are apportioned and allocated to the States. The provision modifies existing law by providing that on October 1 the Secretary shall determine those States which do not receive a return of at least 85 percent of their contributions to the Highway Trust Fund through these construction programs. The Secretary in making the calculation will compare apportionments made on October 1 for that fiscal year and allocations made among the States for the fiscal year ending on the prior September 30. This amount shall then be compared with Trust Fund contributions for the most recent year available.

Three major categories of highway assistance are added to the calculation, which are Interstate discretionary, bridge discretionary, and emergency relief. Also included are several smaller Trust Fund programs authorized from the Highway Trust Fund. Specifically excluded from the calculation are three categories of public lands highway programs which are not allocated directly to States; highway related safety grants; non-construction safety grants authorized by sections 402, 406, and 408 of title 23; and Bureau of Motor Carrier Safety Grants.

This provision is a clarification of the STAA of 1982 calculation requirements and applies only to the Highway Trust Fund other than the Mass Transit Account. The amendment shall become effective on October 1, 1984.

Subsection (c) provides a one year hold harmless application of the calculation requirements. It requires the minimum allocation for fiscal year 1985 to be the larger of either an apportionment only calculation or an appointment and allocation calculation.

WASTE ISOLATION PILOT PROJECT

This section authorizes $58,000,000 in fiscal year 1986, and thereafter, for the upgrading of certain highways in New Mexico which will be used to transport low-level, defense-related wastes to the Waste Isolation Pilot Project (WIPP) near Carlsbad, New Mexico.

The Waste Isolation Pilot Project, a facility for the disposal of transuranic wastes generated as part of the Atomic Energy Defense Activity of the Department of Energy (DOE), was authorized by the Congress in 1979 (P.L. 96–164). No other facility of its kind has been proposed elsewhere, and its construction is of national significance.

As a part of the authorizing legislation, the Secretary of Energy was directed to enter into a written agreement with the State of New Mexico on how DOE was to resolve the concerns of the State. A Stipulated Agreement, and a modification thereof, is in place between the State and DOE, and that Agreement is being overseen by the U.S. District Court. As a part of the Agreement, DOE pledged to support the New Mexico Congressional Delegation in seeking appropriations for the purpose of upgrading certain highways which would be used for transporting wastes to the facility.

In fiscal year 1984, $5.8 million was appropriated to the State of New Mexico to perform planning and design work on 205.9 miles of highways identified in the Agreement. These roads were deter-

mined to be substandard and required upgrading in order to ensure safe shipment of the wastes.

The Federal Highway Administration (FHWA) has submitted a report to the Senate Appropriations Committee which details a four-year schedule for completing the upgrading. FHWA has determined that $58 million is a reasonable estimate for the cost to complete the 205.9 miles of roads and fully supports the authorization. The Committee believes this provision is essential to ensure that the Federal Government meets its commitment to the State of New Mexico, as the State accepts this project of national importance.

INTERSTATE 4R FORMULA

Beginning in the late 1970's, the Congress became concerned about the deterioration of many segments of our national system of Interstate and defense highways. The backlog of repair and reconstruction needs on these roads was growing at a very significant rate. To address the problem, the Congress began to fund what was initially called the 3-R program for the Interstate system and was later modified to include a fourth "R"—for reconstruction. These funds were to be apportioned initially to the States based upon a formula which was lane miles and vehicle miles traveled on segments open to traffic for more than five years.

In 1981 a major effort was begun to change the formula for distributing 4-R funds, and a new formula was put in place by the Federal-aid Highway Act of 1981. Because of another effort made in the Surface Transportation Assistance Act of 1982 to again change the 4-R formula, the Senate insisted upon a study which was authorized by section 137 of that Act. Section 137(b) related particularly to the 4-R program. This study directed that the Secretary examine several different factors which could be involved in determining the best formula for apportioning 4-R assistance to the States.

The Congress in December 1983 received the study mandated by that Act. Based on the conclusions, any formula which is developed should be based on needs and directly related to the goal of preservation of the system. The study concluded that the current 4-R formula strongly correlates with the criteria of need, national benefit and national defense and has a direct link to the needs and purposes of the Interstate system. The study concluded that no compelling argument is possible at this time for changing the existing formula.

Given these findings, the Committee believes it is not an appropriate time to change the formula for apportionment of Interstate 4-R funds. The existing formula is meeting the needs of the States and providing adequate resources for the restoration, rehabilitation, resurfacing and reconstruction of the Interstate system in the several States. Any amendment which modifies the existing formula could delay the timely release of Interstate construction and Interstate substitute funds.

DISCRETIONARY BRIDGE PROGRAM

In developing the Surface Transportation Assistance Act of 1982, the Congress adopted a provision in section 161 which required the

Secretary of Transportation to develop criteria for the selection of discretionary bridges to be funded under section 144(g) of title 23. With the number of bridges requiring substantial work continuing to grow, the Committee in recommending highway legislation to the Senate in 1982 believed that something other than legislative history was required for making eligible discretionary bridges. The criteria the Secretary was to develop would provide a mechanism for rating bridges and thus allocating funds accordingly.

Again this year the Committee has been asked, as has the House Committee on Public Works and Transportation and the Appropriations Committees, to give legislative history for specific bridges. Legislative history has created expectations beyond the funding capability of the discretionary bridge program. The Committee wishes to reiterate its position that the selection criteria established under section 161 of the STAA of 1982 is to be used to make bridges eligible for these discretionary funds and is to provide a mechanism for prioritizing funding requests. In its report this year, the Committee is not designating any bridges and directs the Federal Highway Administration to reply upon the criteria established by the Secretary.

PRISON INDUSTRIES

In 1982, the Surface Transportation Assistance Act amended section 114(b) of title 23, United States Code, and prohibited the use on Federal-aid highways of convict labor or materials produced by convict labor. In 1983, the fiscal year 1984 Commerce, Justice, and State appropriations bill removed this provision from the statute.

The traffic control and sign industry maintains that prison industries unfairly compete against private companies, causing a significant loss of business and loss of jobs in the private sector.

Correctional institutions maintain that their prison industries programs provide useful work for the inmates who would otherwise be idle, unproductive, and unable to learn the work habits and job skills necessary for their eventual rehabilitation.

In testimony before the Committee, there was discussion of a proposal to pay inmates the prevailing wage for producing highway-related materials. The Committee intends to further study this and other proposals in an effort to resolve the concerns raised by correctional officials and the traffic control and sign industry.

CRASH CUSHIONS

The vehicle fleet using the Federal-aid highway system has undergone dramatic changes over the past two years. Cars have been significantly downsized and these smaller cars have become more numerous in the traffic mix. At the same time, trucks are becoming larger and heavier.

According to Highway Safety Stewardship Reports from the Secretary of Transportation, crash cushions are among the highest benefit/cost effective safety devices. Many crash cushions now in use were designed for the heavier passenger vehicles. Because of the downsizing of cars, these crash cushions may not prove adequate when impacted by these vehicles.

The Committee understands that the Federal Highway Administration is conducting research on this issue. It is important to continue these efforts and determine what steps can be taken to retrofit and upgrade these devices. States should also be made aware of this situation so they can inventory crash cushions now in place and determine what upgrading is necessary to protect the travelling public.

SECTION-BY-SECTION ANALYSIS

SECTION 101. SHORT TITLE

This section states the title.

SECTION 102. INTERSTATE COST ESTIMATE APPROVAL

This section approves the Interstate Cost Estimate in order to apportion the Interstate construction funds for the remainder of fiscal year 1985 and for fiscal year 1986. The apportionment made on March 9, 1984, would be adjusted to reflect the apportionment factors approved in the 1983 Interstate Cost Estimate.

SECTION 103. INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

This section approves the Interstate Substitute Cost Estimate in order to apportion the Interstate Substitute funds for the remainder of fiscal year 1984 and for fiscal years 1985 and 1986.

SECTION 104. 85 PERCENT MINIMUM ALLOCATION

This section directs that when the remainder of the 85 percent minimum funds are allocated, the entire allocation for fiscal year 1984 shall be computed using the apportionment of Interstate construction funds based on the approved 1983 Interstate Cost Estimate.

SECTION 105. 1985 INTERSTATE COST ESTIMATE APPROVAL

This section approves the 1985 Interstate Cost Estimate in order to apportion the Interstate construction funds for fiscal years 1987 and 1988.

SECTION 106. RELEASE OF INTERSTATE CONSTRUCTION FUNDS

This section requires the Secretary to apportion Interstate construction funds after adjusting the apportionment factors to reflect apportionments of Interstate construction funds, lapses of such funds, withdrawals of Interstate segments, allocations of Interstate discretionary funds, and Interstate transfers of funds on October 1 of the year of adjustment, if Congress has not approved an Interstate Cost Estimate.

SECTION 107. RELEASE OF INTERSTATE SUBSTITUE FUNDS

This section requires the Secretary to apportion Interstate substitute highway and transit funds after adjusting the Interstate Substitute Cost Estimate to reflect changes in the amounts available to the Secretary, changes in States' estimates of the division of funds

between substitute highway and transit projects, and the allocation and apportionment of substitute highway and transit funds in prior fiscal years on October 1 of the year of adjustment if Congress has not approved an Interstate Substitute Cost Estimate.

SECTION 108. PERIOD OF AVAILABILITY EXTENSION

This section provides that sums authorized for the Interstate system for fiscal year 1985 shall remain available for expenditure until September 30, 1986. Interstate substitute funds apportioned for fiscal year 1984 shall remain available for obligation until September 30, 1986, and such sums which are unobligated (except for amounts insufficient to pay the Federal share of a substitute project) by September 30, 1985, shall be apportioned among those States which have obligated all such sums in accord with the latest cost estimate.

SECTION 109. EMERGENCY RELIEF STATE MATCH

Subsection (a) provides that emergency relief repair work done within 30 days of the occurrence of a disaster to minimize damage, protect facilities or restore essential services will be funded at 100 percent Federal share. All other project work will be funded with the Federal-State match applicable on each system under the regular Federal-aid highway program, e.g. 90–10 percent Federal/State match on the Interstate system, and 75–25 on primary, secondary and urban.

Subsection (b) provides that the match requirement applies to natural disasters or catastrophic failures which occur after the date of enactment of this Act. Such disasters or failures that occurred prior to the date of enactment would be governed by the current matching share of 100 percent.

SECTION 110. PRIORITY FOR INTERSTATE DISCRETIONARY FUNDS

Permits certain Interstate segments under construction on enactment of the STAA of 1982 to receive high priority for Interstate discretionary funds when such segments have two or more Interstate routes on a common alignment in an urban area. This section is intended to apply to a project in Atlanta, Georgia. The Committee also directs the Federal Highway Administration to classify the eastbound segment of I-24 from mile post 129 to mile post 134 down Monteagle Mountain in the State of Tennessee as a gap for the purpose of Interstate discretionary funds.

SECTION 111. HIGHWAY PLANNING AND RESEARCH

This section permits a State to use one and one-half percent of apportioned Interstate Highway Transfer funds for highway planning and research activities. It would not include the 25 percent of transfer funds that are allocated.

SECTION 112. OFF-SYSTEM BRIDGE PROGRAM

This section permits a State to credit State-only financed off-system bridge replacement and rehabilitation projects towards the State share of the cost of other Federal-aid bridge projects. Off-

system bridges that are eligible for section 144 funds, are noncontroversial and certified by the State to have been carried out in accordance with all standards applicable under section 144 of title 23 are eligible for this program.

SECTION 113. WOMEN BUSINESS ENTERPRISES

This section makes Women Business Enterprises a presumptive Disadvantaged Business Enterprise (DBE) for the purpose of section 105(f) of the Surface Transportation Assistance Act of 1982.

SECTION 114. TOLL FACILITY DEREGULATION

This section removes Federal regulation and review of toll increases on certain toll bridges. Toll increases on these deregulated facilities must be just and reasonable.

SECTION 115. RAIL-HIGHWAY CROSSINGS

This section provides that information identifying and prioritizing hazards at rail-highway crossings, required in order to be eligible for Federal-aid funds, cannot be admitted as evidence in trials involving grade crossing accidents.

SECTION 116. TOLL REVENUES

This section requires toll authorities to certify to the Governor that sufficient reserves are available to cover the construction, operation, maintenance, and repair or replacement of the toll facilities. The Governor is to transmit this information to the Secretary of Transportation who will transmit it to Congress. If funds out of the Highway Trust Fund are spent on these toll facilities, an equal amount will be deducted from the State's Federal-aid highway apportionments the following year. International toll facilities and those toll facilities covered by a section 105 or section 129 agreement are not covered by this section.

SECTION 117. RIGHT-OF-WAY DONATION

Subsection (a) allows 100 percent of a private contribution of right-of-way to be credited, according to its fair market value at the time of donation, to the State's matching share for the project if the donation is made to the State. A State would receive no credit for the excess of a donation which exceeded the State matching share for the project.

Subsection (b) amends title 23, United States Code, to provide that land may be donated in advance of the environmental and planning process for a prospective highway project. The donation in no way will affect the required planning process for the location and environmental review of the decision with respect to alignment. If during the alignment study and environmental analysis the route for which the land was donated is determined not to be feasible, the donation of right-of-way would be cancelled and the land revested in the grantor or successors in interest.

Subsection (c) amends title 42, United States Code, to permit donations of right-of-way and/or financial contributions to a State or other political subdivision. The provision also encourages the pro-

motion of such joint projects wherein private citizens and governmental entities participate in the cost of projects as consistent with Federal policy.

Subsection (d) allows the fair market value of lands donated or dedicated to California for the relocation and construction of State Route 73 in Orange County from I–405 to I–5 to be credited to the State's matching share of the project and any excess value to be credited toward the State's share of the cost of any other Federal-aid project. Any recorded irrevocable offer of dedication or donation effective prior to the State's request for final reimbursement on the project shall be considered a part of the State right-of-way acquisition. The Federal-aid reimbursement may not exceed the actual cost to the State for the project.

SECTION 118. RIGHT-OF-WAY PAYBACK

This section directs the Secretary to reserve in a State's account under section 103(e)(4) of title 23, United States Code, an amount equal to that expended on right-of-way for a withdrawn route or segment of the Interstate where the right-of-way has not been disposed of. Such sum shall be released to the State upon partial or full repayment of funds in accordance with section 103(e)(7) of this title or upon the determination by the Secretary that under section 103(e)(5)(B) or (6)(B) repayment is not required.

SECTION 119. BRIDGE STUDY

This section directs the Secretary of Transportation to conduct a study of the Highway Bridge Replacement and Rehabilitation Program. The study is to address the areas of (1) progress made to date in repairing and replacing deficient bridges; (2) the adequacy of the bridge inspection program; (3) the effectiveness of the bridge discretionary program, and (4) the rehabilitation of historic bridges. The Secretary shall report the findings of this study to the Congress one year after the date of enactment of this legislation.

The Transportation Research Board, in consultation with the Federal Highway Administration and the American Association of State Highway and Transportation Officials, is to carry out a study on the bridge formula as it affects vehicle weights and report its findings to Congress no later than 18 months after the enactment of this legislation.

SECTION 120. TECHNICAL AMENDMENTS

SECTION 121. HISTORIC BRIDGES

This section clarifies that any reasonable costs associated with mitigating harm to an historic bridge would be eligible for Federal-aid bridge funds if it remains part of the highway system. States are permitted to use bridge funds equal to the cost of demolition for preserving an historic bridge eligible for demolition if they sign an agreement taking future legal and financial responsibility for the bridge. States also have the option to use bridge funds on historic bridges eligible for demolition for reasonable costs to preserve the historic bridge if it is used for a public purpose and the State or

other public entity signs an agreement taking future legal and financial responsibility for the bridge.

Further, States are required to identify historic bridges on the National Bridge Inventory.

SECTION 122. WILDFLOWERS

This section requires that one-quarter of one percentum of Federal-aid highway funds expended for landscaping on a project be for the planting of wildflowers or such seedlings. The requirement can be waived if a State certifies that the planting of such wildflowers is not feasible because of conditions with respect to the particular project on which landscaping funds are expended. Public donations of wildflowers or seedlings are allowed.

SECTION 123. ELIGIBILITY FOR EMERGENCY RELIEF

This section makes a project which has experienced slide damage in the State of Idaho eligible for emergency relief assistance. This section is intended to apply to a project in the vicinity of horseshoe Bend, Idaho.

SECTION 124. MINIMUM ALLOCATION

Subsection (a) amends section 157 of title 23 to add total allocations as well as apportionments to the calculation of the 85 percent minimum funds and makes the provision permanent law. This will provide to donor States a return closer to 85 percent of the amount contributed to the Highway Trust Fund by these States. Currently, in calculating the return of 85 percent minimum to the States, only apportioned programs are considered. Three major categories are added which are Interstate discretionary, bridge discretionary, and emergency relief. Several smaller Highway Trust Fund categories shall also be included.

Subsection (b) makes the provisions of subsection (a) effective October 1, 1984.

Subsection (c) requires the minimum allocation for fiscal year 1985 to be the larger of either the apportionment formula in existence prior to this amendment or the apportionment and allocation formula as provided in subsection (a).

SECTION 125. MARYLAND TRANSFER

This section permits an Interstate transfer project to be done in increments by the State of Maryland. It is intended to apply to a project in Baltimore, Maryland.

SECTION 126. I-395 DEMONSTRATION CORRECTION

This section directs the District of Columbia and the Commonwealth of Virginia to jointly assume responsibility in consultation with the Secretary of Transportation for a demonstration project on Interstate Highways 95 and 395 in the District of Columbia and Virginia.

This section amends the 12-month demonstration project authorized in P.L. 98-205 concerning the use of express lanes on I-95 and I-395 in Virginia and the District of Columbia to commence within

30 days after the District of Columbia completes reconstruction of the George Mason Bridge.

SECTION 127. BUY AMERICA

The Committee adopted an amendment to section 165 of the Surface Transportation Assistance Act of 1982, the "Buy America" provision. The amendment restores the language establishing a threshold to exempt small projects from the domestic content requirements of the Act. This adjustment provides greater conformity with the language which House and Senate conferees agreed to when the Surface Transportation Assistance Act of 1982 was adopted.

The language contained in Public Law 97-424 does not correspond with the agreement as understood by the Senate conferees, which was to maintain the exemption from Buy America requirements for projects costing $500,000 or less. This discrepancy was attested to in a colloquy conducted in the Senate on December 23, 1982 among Senators Chafee, Stafford, Randolph, Domenici, and Moynihan. The need to further correct the Buy America provision with respect to the small project threshold was reiterated in a colloquy conducted in the Senate on March 2, 1984 among Senators Chafee, Stafford, Randolph and Symms in connection with Senate consideration of H.R. 4957.

The Committee believes that the reestablishment of a threshold provision will help to reduce administrative burdens and facilitate the highway and transit procurements of small project grantees.

SECTION 128. WASTE ISOLATION PILOT PROJECT

This section authorizes $58 million out of general revenues to upgrade certain roads in the State of New Mexico. This authorization fulfills an agreement among the State of New Mexico, the Department of Energy and the Department of Transportation for the upgrading of roads in the vicinity of the Waste Isolation Pilot Project (WIPP). This facility is being built as a long-term respository for storage of low-level nuclear wastes from around the country.

SECTION 129. OBLIGATION LIMITATION

This section establishes an obligation limitation of $12.750 billion for fiscal year 1986, excluding emergency relief projects, certain bridge acceleration projects, the rehabilitation of a federally owned bridge, and projects associated with the National Visitor Center. The obligational authority for the fiscal year is to be allocated to the State in the same ratio as those sums to be apportioned to the States for Federal-aid highways and highway safety construction are apportioned or allocated.

During the first quarter of fiscal year 1986 no States shall obligate more than 35 percent of the amount available, and collectively the State shall obligate no more than 25 percent of the total amount during that same period.

SECTION 130. BICYCLE PROJECTS ELIGIBILITY

This section permits States to use Federal-aid highway funds apportioned or allocated for a highway substitute project for the purpose of designing and constructing bicycle facilities.

SECTION 131. INTERSTATE TRANSFER CONCEPT PLANS

This section allows States to make adjustments to their Interstate substitution programs which have been approved in concept by the Secretary on or before September 30, 1983. States may add or delete projects up to one year after the date of enactment of this Act.

The Committee recognizes that the completion of the National Freeway in Western Maryland is a project which will serve the City of Baltimore as well as other parts of the State. The completion of the Freeway will provide assistance to the Port of Baltimore and to shippers, consumers, and travelers in Baltimore, and therefore meets the requirement of the Interstate Substitution Concept Program that all projects involved in a transfer of funds serve the same geographical area, as long as the Governor and affected local officials agree.

SECTION 132. 139 (a) AND (b) ROUTE DESIGNATION

Section 8 of P.L. 98–229 amended section 139 (a) and (b) of title 23, United States Code, to permit the use of Interstate 4–R funds on highways designated as a route on the Interstate system under section 139 (a) and (b) before March 9, 1984. This section extends this provision to routes so designated before the date of enactment of this Act.

SECTION 133. RELEASE OF CONDITION RELATING TO CONVEYANCE OF CERTAIN HIGHWAY

This section relieves the State of Maryland from the obligation of accepting title to the Baltimore-Washington Parkway in return for Federal participation in improvements to the Parkway as required under section 146 of the Federal-aid Highway Act of 1970.

SECTION 134. PRISON INDUSTRY IMPACT STUDY

This section requires the Secretary of Transportation to submit a study to Congress on the involvement of State prison industries which furnish convict-produced materials on Federal-aid highway projects and the impact on private industry and State correctional facilities.

SECTION 135. DISCRETIONARY FUNDS

This section requires the Secretary to give consideration in allocating discretionary Interstate substitute funds to any state which has its overall allocation of such funds (formula and discretionary) reduced in excess of 45 percent from fiscal year 1983 to fiscal year 1984. The amendment terminates on September 30, 1989.

SECTION 136. FERRY REPLACEMENT

This section permits highway bridges replacement or rehabilitation funds to be used for the construction of bridges to replace ferries which were in existence on January 1, 1984.

SECTION 137. EXTENSION OF INNOVATIVE TECHNOLOGY PROGRAM

Section 142 of the Surface Transportation Assistance Act of 1982 authorized a five percent increase in the Federal share payable for projects using recycled materials or asphalt additives to strengthen the materials, or certain other innovative technologies. This section extends the five percent increase for one year (through fiscal year 1986) to correspond with funding authorizations in the STAA of 1982.

SECTION 138. OCEAN TRANSPORT CONTAINERS

This section provides that motor vehicles hauling ocean transport containers having a gross weight of 34,000 pounds on tandem axles with an overall distance of 30 feet between the first and last axles may be operated on Interstate highways for five years.

Actions are currently being taken by shippers to phase out the use of shorter containers in favor of longer containers which will permit shippers to meet fully the bridge formula requirements. This provision is intended as a means to provide shippers time to amortize their fleets of shorter ocean transport containers without experiencing severe economic hardship. In five years, when the provision has expired, all ocean transport containers travelling over the Interstate System would be required to comply fully with the bridge formula.

HEARINGS

Although no hearings were held in the 99th Congress on the bill, extensive hearings had been held during the 98th Congress on substantially the same legislation. In the interest of expediting the approval and release of the backlog of Interstate construction and Interstate substitute funds, no new hearings were scheduled. The primary purpose for legislation remained the same—Congressional approval of the ICE and ISCE.

In 1984, the Transportation Subcommittee of the Committee on Environment and Public Works conducted four days of hearings on the overall subject of implementation of the Surface Transportation Assistance Act of 1982 (STAA of 1982). All the hearings were held in Washington, D.C.

Testimony was received from Rudolph G. Penner, Director of the Congressional Budget Office, on the financial condition of the Highway Trust Fund and its implications for the current Federal highway program. Also testifying were James H. Burnley IV, Deputy Secretary, U.S. Department of Transportation, and Ray A. Barnhart, the Federal Highway Administrator, on the fiscal year 1985 budget and implementation of the STAA of 1982.

The Subcommittee held another day of hearings on provisions in the 1982 Act affecting the trucking industry. Testimony was re-

ceived from Federal, State, and local transportation officials, industry representatives, consumer groups, and environmentalists.

Two additional days of hearings were held by the Subcommittee. Witnesses addressed specific issues relating to implementation of the STAA of 1982; new and pending legislation; the current and long-term status of the Highway Trust Fund; and the roles of Federal, State, and local governments. Among those testifying were five United States Senators and a Representative, State and local officials, construction and other industry representatives, and public interest groups.

Rollcall Votes During Committee Consideration

During consideration of this bill by the Committee on Environment and Public Works, two rollcall votes were taken. In accordance with Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works, those votes are recorded below.

On January 29, 1985, Senator Lautenberg moved adoption of an amendment to an amendment proposed by Senator Chafee. The motion to freeze fiscal year 1986 highway spending at the fiscal year 1985 level was defeated by a vote of 11 to 3 with Senators Stafford, Abdnor, Bentsen, Chafee, Domenici, Durenberger, Evans, Humphrey, Mitchell, Simpson, and Symms voting in the negative. Senators Burdick, Baucus, and Lautenberg voted in support of the measure.

Committee members then voted on the original Chafee amendment to substitute $12,750,000,000 as the obligation limitation for fiscal year 1986. The motion was adopted by a vote of 15–0 with Senators Stafford, Abdnor, Bentsen, Burdick, Chafee, Domenici, Durenberger, Evans, Hart, Humphrey, Lautenberg, Mitchell, Moynihan, Simpson, and Symms voting in the affirmative.

Senator Symms moved to report the bill, as amended, from Committee. The motion was adopted by a voice vote with Senator Evans noting his opposition.

Evaluation of Regulatory Impact

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires the committee to evaluate the regulatory impact of the reported bill. It is not anticipated that this bill will impose any significant new regulatory burden.

Cost of Legislation

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 5, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 391, the Interstate Highway Funding Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 391.
2. Bill title: Interstate Highway Funding Act of 1985.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, January 29, 1985.
4. Bill purpose: The bill directs the Secretary of Transportation to apportion the remaining interstate construction and interstate substitution funds available for obligation in fiscal year 1984, and all of the funds for these programs available for fiscal year 1985. (One-half of the funds for 1984 were released on March 9, 1984 by Public Law 98–229.) It also provides approval in advance for the Secretary to apportion—at the beginning of the respective fiscal years—the interstate construction funds available for fiscal years 1986 and 1987 and the interstate substitution funds available for 1986. In addition, if the Congress has not acted to approve an interstate cost estimate or interstate substitute cost estimate in future years, the Secretary is directed to apportion the funds based on an adjusted version of the previous estimate.

The bill establishes an obligation ceiling of $12.75 billion for Federal-aid highway and highway safety construction programs, a level $1.7 billion below that authorized for 1986 by the Surface Transportation Assistance Act of 1982, and $500 million below the obligation ceiling for 1985. However, it exempts from this limitation funds equal to the amount returned by states in unused obligation authority in August 1984, because interstate funds were not apportioned. This could result in additional obligations of about $400 million in 1986.

S. 391 also extends indefinitely the minimum allocation program, which, under current law, ensures that each state receives a percentage of total highway apportionments equal to at least 85 percent of its percentage of estimated tax payments to the Highway Trust Fund. It directs the Secretary to reallocate the 1984 funds from this program, based on the full apportionment of interstate construction and interstate substitution funds. The bill also changes the formula on which the program is based to include discretionary funds allocated to states under certain highway programs; a "hold-harmless" provision is included for fiscal year 1985 that allows states to receive their allocation based on either the original or the new formula, whichever is higher. The Surface

Transportation Assistance Act of 1982 authorized such sums as may be necessary for this program through 1986.

S. 391 also makes possible the appropriation of funds from the Highway Trust Fund to reconstruct a 19-mile portion of the Baltimore-Washington Parkway. In addition, it authorizes the appropriation of $58 million from the general fund for upgrading certain highways in the State of New Mexico.

5. Estimated cost to the Federal Government: This bill permits the obligation of over $7 billion previously provided for interstate highway programs for fiscal years 1984 and 1985. The budget impact of this spending has been attributed to previous highway legislation, and is not reflected in this estimate. Other provisions of the bill would have the following budgetary effects.

[By fiscal years, in millions of dollars]

	1985	1986	1987	1988	1989	1990
Direct spending—from the highway trust fund:						
Estimated budget authority	178	200	.....	.....	.....	.....
Estimated outlays	30	−93	−542	−171	−45	−24
Authorizations:						
From the highway trust fund:						
Authorization level	60	.....	.....	.....	.....	.....
Estimated outlays	5	31	9	5	4	2
From the general fund:						
Authorization level	.....	58	.....	.....	.....	.....
Estimated outlays	.....	5	30	9	7	2

The bill also requires the Department of Transportation to undertake two studies related to bridges, and one on the involvement of state prison industries producing materials for use on Federal-aid highways. No additional funding is authorized for these studies; we expect them to cost less than $1 million.

The costs of this bill fall within budget function 400.

Basis of estimate: Budget authority for the minimum allocation program, which is funded from the Highway Trust Fund, is expected to increase by approximately $178 million in 1985 and $200 million in 1986 as a result of the bill. The formula change is expected to increase budget authority by approximately $205 million in 1985, but this is partially offset by a decrease of $27 million resulting from the adjustment and reallocation of funds made available for obligation in March 1984. More accurate estimates will not be available until after funds are apportioned or allocated for each fiscal year. These changes will result in additional outlays of about $350 million over the 1986–1990 period.

The bill also reduces the obligation ceiling for fiscal year 1986 by $1.7 billion from the level in current law, though it exempts from the limitation about $400 million worth of obligations. Total outlay savings resulting from the obligation ceiling changes are estimated to be $1.2 billion over the 1986–1990 period. This provision does not affect budget authority.

The provision related to the Baltimore-Washington Parkway permits the appropriation and expenditure of $59.5 million from the Highway Trust Fund. A total of $65 million was authorized for this

purpose in the Federal-Aid Highway Act of 1970, with the stipulation that the parkway be conveyed to the State of Maryland after reconstruction. Although $5.5 million was appropriated during the 1970s for preliminary work, no more funds can be expended under current law because of the state's refusal to accept conveyance of the segment. S. 391 deletes the requirement that the state accept conveyance, and permits the remaining funds to be appropriated.

This estimate assumes that the $58 million authorized for highways in New Mexico will be appropriated for fiscal year 1986. All estimates of outlays are based on historical spend-out rates.

6. Estimated cost to State and local governments: Federal funding for highways is provided to states in the form of grants, with a required state match for most programs ranging from 10 percent to 25 percent of the total cost of the project. The bill decreases the funds going to the states, by the same amount of outlay savings to the federal government. As a result, states would not be required to revise matching funds for those grants, but, on the other hand, they will not have as much federal money available to fund their projects.

7. Estimate comparison: None.

8. Previous CBO estimate: On February 5, 1985, the Congressional Budget Office prepared a cost estimate for S.J. Res. 8, as ordered reported by the Senate Committee on Environment and Public Works, January 29, 1985. That bill directed the Secretary to apportion interstate construction and interstate substitution funds, and to reallocate the 1984 funds for the minimum allocation program. It also reduced the obligation ceiling to $12.75 billion in 1986. The estimated costs reflect these differences.

On September 28, 1984, CBO prepared a cost estimate for S. 3024, as ordered reported by the Senate Committee on Environment and Public Works, September 26, 1984. That bill included funding for 15 demonstration projects throughout the country, and did not reduce the obligation limitation for the Federal-aid highway program in 1986. It also did not include the provision related to the Baltimore-Washington Parkway. The estimated costs reflect these differences.

On August 3, 1984, CBO prepared a cost estimate for H.R. 5531, as ordered reported by the House Committee on Interior and Insular Affairs, August 1, 1984. That bill made possible the appropriation of funds for the Baltimore-Washington Parkway. Our estimate assumed that the appropriations would be made prior to the start of fiscal year 1985, and outlays in 1985 were estimated to be higher than for the present bill.

9. Estimate prepared by: Kathleen Kelly.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Changes in Existing Law

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follow: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

TITLE 23—UNITED STATES CODE

HIGHWAYS

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.

* * * * * * *

127. Vehicle weight [and width] limitations—Interstate System.

* * * * * * *

146. [Repealed] Carpool and vanpool projects.

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TITLE 23—UNITED STATES CODE

HIGHWAYS

CHAPTER 1—FEDERAL-AID HIGHWAYS

* * * * * * *

§ 103. Federal-aid systems

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(e) * * *

(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier; shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode for mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the area or areas from which the interest route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or

did not pass through the connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located. Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction, and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until September 30, 1985[.] *Provided, That the States may adjust their Interstate substitution programs which were approved in concept by the Secretary on or before September 30, 1983, to drop and add projects up to one year after the date of enactment of this Act, without altering the exisiting entitlement.* Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractural obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof. [The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. Any sums which are apportioned to a State for a fiscal year and are unobligated (other than an amount which, by itself is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such fiscal year, in accordance with the latest approved estimate of the cost of completing the appropriate substitute projects in such States.] *The sums apportioned and the sums allocated under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year. The sums apportioned and the sums allocated under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year. Any sums which are apportioned or allocated to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them for such fiscal year such reapportionments shall be in accordance with the latest estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.* The sums obligated for mass transit projects shall become part of, and be administered through, the

Urban Mass Transportation Fund. For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and $700,000,000 shall be available for expenditure during each of the fiscal years ending September 30, 1984, September 30, 1985, and $725,000,000 shall be available for expenditure during the fiscal year ending September 30, 1986. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share or such approved estimate in making apportionments for sustitute highway projects for the *fiscal year* ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1985, and September 30, 1986. *In September of each year, the Secretary shall adjust the last cost estimate submitted to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, and (3) the allocation and apportionment of substitute highway funds in prior fiscal years. The Secretary shall use the Federal share of such adjusted estimate in making apportionments for substitute highway projects on October 1 of the year of adjustment if the Congress has not approved an Interstate Substitute Cost Estimate to make such apportionment.* There are authorized to be appropriated for liquidation of obligations incurred this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964. Fifty per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approval estimate

in making apportionments for substitute transit projects for the fiscal *year* ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984 and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986. *In September of each year, the Secretary shall adjust the last cost estimate submitted to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, and (3) the allocation and apportionment of substitute transit funds in prior fiscal years. The Secretary shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects on October 1 of the year of adjustment if the Congress has not approved an Interstate substitute Cost Estimate to make such apportionments.* Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal Aid Highway Act of 1976, shall be effective as of August 13, 1973. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title. After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of

the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph. Any route or segment thereof which was statutorily [designed] *designated* after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection. *Of sums made available to the Secretary under this paragraph for a State, an amount equal to the amount expended in Federal funds to purchase right-of-way for the withdrawn route or portion thereof in every case where right-of-way has not been disposed of by the State as of the date of enactment of this sentence shall not be available for release by the Secretary until the right-of-way disposition decision has been made in accordance with 103(e)(5)(B), (6)(B), or (e)(7) of this title. The amount apportioned to each eligible State pursuant to the thirteenth and nineteenth sentences of this paragraph shall be based on the full remaining value of the sum made available under this paragraph as determined by the Secretary but the total of such apportionments shall not exceed the remaining value of such sums less the amount unavailable for release by the Secretary. Sums retained by the Secretary shall be made available for apportionment upon partial or full repayment of funds in accordance with Section 103(e)(7) of this title or upon determination by the Secretary that, under Section 103(e)(5)(B) or (6)(B), repayment is not required.*

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§ 104. Apportionment

(b) (5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal years 1967 through 1990 in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized. As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and

June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approval estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this secton, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to Janaury 2, 1968. Upon the approval of the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978, in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System

after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days, subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. *In September of each year, the Secretary shall adjust the last estimate submitted to reflect (1) all previous credits, apportionments and lapses of previous apportionments, (2) previous withdrawals of Interstate segments under section 103(e)(4) of this title, (3) previous allocations of Interstate discretionary funds under section 118(b)(2) of this title, and (4) Interstate transfer of funds under section 119(d)*

of this title. The Secretary shall use the Federal share of such adjusted estimate in making apportionments on October 1 of the year of adjustment if the Congress has not approved an Interstate Cost Estimate to make such apportionment. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway or routes designed prior to February 1967. Notwithstanding any other provisions of this subparagraph, the Secretary in making the revised estimate of the cost of completing the then designated Interstate System for the purpose of transmitting it to the Senate and House of Representatives within ten days subsequent to January 2, 1983, or thereafter shall include only those costs eligible for funds authorized by subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, including the amendments made by section 4 of the Federal-Aid Highway Act of 1981.

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§ 111. Agreements relating to use of and access to rights-of-way—Interstate System

(*a*) All agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System. Such arrangements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such pruposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaires or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

(b) Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway de-

partment determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the "Randolph-Sheppard Act" (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.

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§ 118. Availability of sums apportioned

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(b) * * *

(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in the State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an interstate segment which is not open to traffic *and high cost projects which are eligible for Federal assistance with funds apportioned under section 104(b)(5)(A) of this title and are on an Interstate segment which is on a common alignment of more than 7.9 miles with any other Interstate segment and on which actual construction with funds apportioned under such section is under way on the date of enactment of the Surface Transportation Assistance Act of 1982;* and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) apply the funds to a ready-to-commence project; and (B) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

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Sec. 119. Interstate System resurfacing.

"(a) The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of [this sentence] *the Interstate Highway Funding Act of 1985* under section 139 (a) and (b) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided

for in section 105 of the Federal-Aid Highway Act of 1978. Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title. The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title.".

* * * * * * *

§ 120. Federal share payable

* * * * * * *

(f) The Federal share payment on account of any repair or reconstruction provided for by funds made available under section 125 of this title [shall not exceed 100 per centum of the cost thereof: *Provided,*] *on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable of a project on a system as provided in subsections (a) and (c) of this section: Provided, That the Federal share payable for eligible emergency repairs to minimize damage, protect facilities or restore essential traffic accomplished within 30 days after the actual occurrence may amount to 100 per centum of the cost thereof; and Provided further,* That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands, highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.

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(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

[(i)] *(j)* The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.

[(j)] *(k)* Notwithstanding any other provision of this section (other than subsection (f)), of this title, or of any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project under sections 143, 148, and 155,

of this title and for those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives, and for funds allocated under the provision of section 155 of this title and obligaged subsequent to January 6, 1983, the Federal share payable on account of such project shall be 95 per centum of the cost thereof, unless—

(1) such project is on land owned by the United States in which case the Federal share shall be 100 per centum of the cost of such project, or

(2) a Federal share of the cost of the project greater than 95 per centum is specifically authorized by law.

[(k)] *(l)* Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, resurface, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.

* * * * * * *

Sec. 122. Payment to States for bond retirement.

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas *or for substitute highway projects approved under section 103(e)(4) of this title* and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.

* * * * * * *

§ 125. Emergency relief

(a)* * *

(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on [the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors,] *the Federal-aid highway systems, including the Interstate System* in accordance with the provisions of this chapter. *Provided,* That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 in any State. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on [the Interstate System, the Primary system, and on any routes functionally classified as arterials or major collectors,] *the Federal-aid highway systems, including the Interstate System.* Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

(c) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are [routes functionally classified as arterials or major collectors] *on any of the Federal-aid highway systems.*

* * * * * * *

Sec. 127. Vehicle weight limitations—Interstate System.

(a) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall

maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles *(1)* is thirty-six feet or more, *or (2) in the case of a motor vehicle hauling any ocean transport container within five years of the enactment of the Interstate Highway Funding Act of 1985, thirty feet or more: Provided,* That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles *on any vehicle (other than a vehicle comprised of a motor vehicle hauling any ocean transport container after five years of the date of enactment of the Interstate Highway Funding Act of 1985),* on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(b) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

(c) For purposes of this section, the term "ocean transport container" has the meaning given the term "freight container" by the International Standards Organization on the date of enactment of the

Interstate Highway Funding Act of 1985 in Series 1, Freight Containers 3rd Edition (reference number ISO668–1979 (E)).

§ 129. Toll Roads, Bridges, Tunnels, and Ferries

* * * * * * *

(j)(1) Each operator of toll roads, toll tunnels, toll ferries, and toll bridges, other than an international toll facility or toll facility subject to an agreement under this section or section 105 of the Surface Transportation Assistance Act of 1978 on a Federal-aid system in a State shall biennially certify to the Governor of the State that such facilities are adequately maintained and that the operator of such toll facility has the ability to fund the replacement or repair of any such facilities that are not adequately maintained without using Federal-aid highway funds. Failure to certify shall preclude Federal funding out of the Highway Trust Fund of any facilities owned or operated by the operator of such toll facility.

(2) The Governor shall report biennially to the Secretary the toll facilities subject to paragraph (1) of this subsection, that have so certified and those which have not certified in accordance with paragraph (1) of this subsection. If funds from the Highway Trust Fund are used to repair or replace such toll facilities, the States' apportionments for the following fiscal year under section 104 of this title shall be reduced by the amount of Highway Trust Fund monies expended; Provided, that such reduction shall not be made if the State has executed an agreement covering such toll facilities under this section or section 105 of the Surface Transportation Assistance Act of 1978.

* * * * * * *

Sec. 139. Additions to Interstate System.

(a) Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of **[**this sentence**]** *the Interstate Highway Funding Act of 1985.*

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (e) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved

designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of [this sentence] *the Interstate Highway Funding Act of 1985.* In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

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§ 144. Highway bridge replacement and rehabilitation program

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(c)(1) The Secretary, in consultation, with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary [may, at the request of a State,] *shall require each State to* inventory bridges, on and off the Federal-aid system, for historic significance.

(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient

bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The square footage of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. *Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection.*

* * * * * * *

(g)(1) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Of the amount authorized for the fiscal year ending September 30, 1983, by paragraph (1) of section 5(a) of the Federal-Aid Highway Act of 1982, all but $200,000,000 (multiplied by the factor determined under section 4(a) of such Act) shall be apportioned as provided in subsection (e) of this section. $200,000,000 (multiplied by such factor) of the amount authorized for such fiscal year shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 (multiplied by such

factor) shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fsical year in which application is made for a grant for such bridge.

(2) Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, by section 5(a)(1) of the Federal-Aid Highway Act of 1982 and section 202(1) of the Highway Safety Act of 1982, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal-aid system when he determines that such State has inadequate needs to justify such expenditure.

(3) Notwithstanding any other provision of law, any State or States may, at their option, utilize any of the funds provided them to carry out this section for the construciton of bridges to replace ferries, which ferries were in existence on January 1, 1984. The Federal share payable on account of any such highway bridge construction pursuant to this subsection shall be the same as provided for highway bridge replacement or rehabilitation.

* * * * * * *

(n) Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway system for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under such section 144, and is determined by the Secretary upon completion to be no longer a defi-

cient bridge, any amont expended after the effective date of this section, from such State and local sources for such project in excess of 20 per centum of the cost of constructon thereof may be credited to the non-Federal share of the cost of other projects in such State which are eligible for Federal funds under section 144, in accordance with procedures established by the Secretary.

(o) When a Federal-aid project undertaken pursuant to this section uses a bridge entitled to protection under section 138 of this title, section 303 of title 49, or section 470f of title 16, the costs incurred to mitigate harm to such a bridge shall be eligible for funds authorized under this section as follows:

(i) For a bridge which remains in service to accommodate the highway system of which it is an integral part, reasonable costs incurred due to actions deemed by the Secretary to be required by section 138 of this title, or section 303 of title 49, or requested by the State, to mitigate harm to such a bridge shall be eligible for participation.

(ii) For a bridge eligible for demolition with Federal funds under this section, the cost to preserve such bridge at the original or new location shall be eligible for participation, in an amount equal to the cost of demolition, provided that a State, local, or private entity agrees in writing to assume future legal and financial responsibility for such bridge.

(iii) For a bridge eligible for demolition with Federal funds under this section, reasonable costs to preserve such bridge at the original or new location shall be eligible for participation at the option of a State provided such State agrees in writing that the bridge will be devoted to public purposes and a public entity will assume future legal and financial responsibility for such bridge.

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§ 154. National maximum speed limit

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(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted *on January 1, 1983,* at fifty-five miles per hour, *and on highways built after such date with speed limits posted as 55 miles per hour,* in accordance with criteria to be established by the Secretary, including **[**criteria which takes**]** criteria which take into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

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§ 157. Minimum allocation

[(a) In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985,

and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144 and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which date is available.]

(a) Beginning with the fiscal year 1985, as soon as practicable after the date of enactment of the Interstate Highway Funding Act of 1985, and in each of the fiscal years thereafter, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title, amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year and allocation for the prior fiscal year of authorized Federal-aid highway programs and Federal-aid highway projects, except allocations for forest highways, Indian reservation roads, and parkways and park highways in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, non-construction safety grants authorized by sections 402, 408, and 406 of this title, and Bureau of Motor Carrier safety grants authorized by section 404 of the Surface Transportation Assistance Act of 1982, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

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§ 204. Federal Lands Highways Program

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(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by *the Secretary or* the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

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§ 217. Bicycle transportation and pedestrian walkway

(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, a Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(b)(1) To encourage energy conservation, including the development, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in acordance with paragraphs (1), (2), and (6) of section 104(b) of this title and sums apportioned or allocated for highway substitute projects in accordance with section 103(e)(4) of this title shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

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§ 307. Research and planning

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(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104 and for highway projects, section 103(e)(4) of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public transportation systems and for planning for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning design, construction, and maintenance of highways and highways systems and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing, an the regulation and taxation of their use.

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§ 319. Landscaping and scenic enhancement

(a) The Secretary may approve as a part of the construction of Federal aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land

necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

(b) The Secretary shall require the planting of native wildflower seeds and/or seedlings as part of any landscaping project under this section. At least one-quarter of one per centum of the funds expended for landscaping projects shall be used for such plantings. The requirements of this subsection may be waived by the Secretary if the State certifies that such native wildflowers or seedlings cannot be grown satisfactorily or plantings are limited or otherwise used for agricultural purposes. Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used on landscaping projects.

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§ 323. Donations

(a) Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

(b)(1) A gift or donation in accordance with subsection (a) may be made at any time during the development of a project: Provided That any document executed as part of such donation clearly indicates that—

(i) all alternatives to a proposal alignment will be studied and considered pursuant to the National Environment Policy Act;

(ii) acquisition of property under this subsection shall not influence the enviromental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

(iii) any property acquired by gift or donation shall be revested in the grantor or alignment chosen after public hearings and completion of the environmental document.

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§ 402. Highway safety programs

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(j) The Secretary of Transportation shall, not later than September 1, 1981, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Such rule shall be promulgated taking into account consideration of the States having a major role in establishing these programs. Not later than April 1, 1982, the Secretary shall promulgate a final rule establishing those programs determined most effective in reducing accidents, injuries, and deaths. Before such rule shall take effect, it shall be transmitted to Congress. If such rule is not transmitted by April 1, 1982, it shall not take effect before October 1, 1983. If such rule is transmitted by April 1, 1982, it shall take

effect October 1, 1982, unless before June 1, 1982, either House of Congress by resolution disapproves such rule, if such rule is disapproved by either House of Congress, the Secretary shall not apportion or obligate any amount authorized to carry out this section for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1981. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under [chapter] section.

* * * * * * *

BRIDGES OVER NAVIGABLE WATERS

GENERAL BRIDGE ACT OF 1906

33 U.S.C. secs. 491–498

§ 491. Approval of and deviation from plans

§ 494. Obstruction of navigation; alterations and removals; lights and signals; draws; toll

No bridge erected or maintained under the provisions of sections 491–498 of this title, shall at any time unreasonably obstruct the free navigation of the waters over which it is constructred, and if any bridge erected in accordance with the provisions of said sections, shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of Transportation, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of said sections; and all such alteractions shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Commandant of the Coast Guard shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water crafts. [If tolls shall be charged for the transit over any bridge constructed under the provisions of said sections, of engines, cars, street cars, wagons, carriages, vehicles, animals, foot passengers, or other passengers, such tolls shall be reasonable and just, and the Secretary of Trans-

portation may, at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rates and shall be the rates demanded and received for such transit]

* * * * * * *

[§ 498a. Application of sections 491–497 to bridges authorized prior to June 10, 1930

[In the case of bridges authorized, prior to June 10, 1930, by Acts of Congress specifically reserving to Congress the right to subsequently regulate tolls on such bridges, such bridges shall, in respect of the regulation of all tolls, be subject to the provisions of sections 491–497 of this title.

[§ 498b. Application of sections 491–497 to bridges authorized prior to March 23, 1906

[Any bridge authorized, prior to March 23, 1906, by Act of Congress specifically reserving to Congress the right to alter, amend, or repeal such Act, shall in respect of the regulation of all tolls, be subject to the provisions of sections 491–497 of this title.]

* * * * * * *

ACT OF AUGUST 21, 1935, AS AMENDED, 33 U.S.C. SECS. 503–507

[§ 503. Tolls; reasonableness; bridges to which provisions not applicable

[Tolls for passage or transit over any bridge over any of the navigable waters of the United States, if such bridge is used for purposes of travel or transportation in interstate or foreign commerce, shall be just and reasonable; but the provisions of this section and sections 504–507 of this title shall not apply to any bridge subject to the provisions of sections 491–498 of this title, nor to any bridge built under the authority of the legislature of the State across rivers or other waterways the navigable portions of which lie wholly within the limits of a single State, nor to any bridge on which the tolls are prescribed by a contract entered into by or with any State or political subdivision thereof, or any municipality.

[§ 504. Same; determination of reasonableness by Secretary of Transportation; effect of order prescribing toll

[The Secretary of Transportation is authorized, either upon complaint or upon his own initiative, to conduct an inquiry at any time for the purpose of determining whether any toll charged for passage or transit over any bridge to which sections 503–507 of this title apply is in violation of the provisions of section 503 of this title, and if he finds, after full opportunity for hearing, that such toll is in violation of such provisions he is authorized and empowered to determine and by order to prescribe what will be the just and reasonable toll to be thereafter charged, and after such order takes effect it shall be unlawful to collect a toll for such passage or transit in excess of that so prescribed. Any such order shall take effect upon the expiration of thirty days after its issuance.

[§ 505. Same; review of order

[Any order issued under section 504 of this title may be reviewed by the court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order was issued. The judgment of any such court shall be final, except that it shall be subject to review by the Surpreme Court of the United States upon certiorari, in the manner provided in section 347 of Title 28. The review by such courts shall be limited to questions of law, and the findings of fact by the Secretary of Transportation, if supported by substantial evidence, shall be conclusive. Upon such review, such courts shall have power to affirm or, if the order is not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require.

[§ 506. Same; hearings to determine reasonableness; attendance of witnesses; punishment for failure to attend

[In the execution of his functions under sections 504 and 507 of this title and this section the Secretary of Transportation, or any officer or employee designated by him, is, authorized to hold hearings, examine witnesses, and receive evidence at any place designated by him, and to administer oaths and affirmations, and require by subpena the attendance and testimony of witnesses and the production of books, papers, and documents from any place in the United States. In any case [1] disobedience to any such subpena the Secretary of Transportation may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to a subpena or lawful requirement under sections 503 to 507 of this title, shall, upon conviction thereof, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

[§ 507. Same; failure to obey order prescribing toll; punishment

[In any case where there is in effect a toll prescribed by an order issued under section 504 of this title, for passage or transit over any bridge to which this section and sections 503–506 of this title apply, any person who demands or collects a toll for such passage or transit in excess of that so prescribed shall, upon conviction thereof, be punished by a fine of not to exceed $1,000 or by imprisonment for not more than one year, or by both by such fine and imprisonment.]

* * * * * * *

GENERAL BRIDGE AUTHORITY

GENERAL BRIDGE ACT OF 1946

33 U.S.C., secs. 525–533

§ 50.Construction and operation of bridges; consent of Congress;

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[§ 526. Amount of tolls

[If tolls shall be charged for the tranist over any interstate bridge of engines, cars, street cars, wagons, carriages, vehicles, animals, foot passengers or other passengers, such toll shall be reasonable and just, and the Secretary of Transportation may at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be legal rates and shall be the rates demanded and received for such transit.

[§ 526a. Same; regulations; increment guidelines

[The Secretary of Transportation shall promulgate regulations establishing guidelines governing any increase in tolls for use of any bridge constructed pursuant to either the General Bridge Act of 1906 or the General Bridge Act of 1946.]

* * * * * * *

[§ 529. Sinking funds; rates of tolls: cancellation of tolls

[If tolls are charged for the use of an interstate bridge constructed or taken over or acquired by a State or States or by any municipality or other political subdivision or public agency thereof, under the provisions of sections 525–533 of this title, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed thirty years from the date of completing or acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.]

* * * * * * *

INTERNATIONAL BRIDGES

INTERNATIONAL BRIDGE ACT OF 1972

33 U.S.C secs. 535, 535a–535i

* * * * * * *

[§ 535d. Tolls, collection methods; annual report; audit

[If tolls are charged for the use of an international bridge constructed under this Act, the following provisions shall apply, so far as the United States has jurisdiction, in the case of a bridge constructed or acquired by a private individual company, or other private entity:

[(1) Tolls may be collected from the date of completion of the bridge for a period determined by the Secretary of Transportation to be a reasonable period for amortization of the cost of construction or acquisition of the bridge, including interest and financing costs, and a reasonable return on invested capital.

[(2) At the end of such period, the United States portion of the Bridge and its approaches, if not previously transferred to a public agency pursuant to section 535e of this title, shall become the property of the State having jurisdiction over the United States portion of the bridge, and no further compensation shall be deemed to be due such private individual, company, or other private entity.

[(3) An accurate record of the amount paid for acquiring or constructing the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be reported annually to the Secretary of Transportation. Whenever he may deem advisable, the Secretary of Transportation shall audit, review, and inspect such records, books, accounts, and operations.]

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * * * *

[§ 461. Uniform policy on real property acquisition practices

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment of owners in the many Federa progrms, *to promote joint projects between States and landowners and other entities in order to maximize Federal and State dollars* and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

* * * * * * *

(10) Promotion of joint projects wherein private citizens and other governmental entities participate in the cost through land donations and/or financial contributions is consistent with Federal policy and should be encouraged by all Federal agencies. To this end donations of right-of-way and/or financial contributions by a State or other political subdivision, or any person is permissible.

* * * * * * *

TITLE 49—TRANSPORTATION

* * * * * * *

Sec. 1655. Transfer of functions

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(g) Department of Army; functions, powers, and duties of Secretary of Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of sea by oil, and location and clearance of bridges and causeways on navigable waters.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) to (3) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

[(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

[(A), (B) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

[(C) Section 17 of the Act of June 10, 1930, as amended.

[(D) The Act of June 27, 1930, as amended.

[(E) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.]

(5), (6) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

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HIGHWAY IMPROVEMENT ACT OF 1982

Public Law 97-424, 97th Cong., Jan. 6, 1983

* * * * * * *

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

* * * * * * *

(f) Except to the extent that the Secretary determines otherwise, not less than 10 per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns. *Such small business concerns may be either* owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto [.] *or owned and controlled by women.*

* * * * * * *

FEDERAL AID PRIMARY FORMULA

SEC. 108.

* * * * * * *

(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 [of this title,] *title 23, United States Code,* the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands shall not receive less than one-half of 1 per centum of each year's apportionment. There are authorized to be appropriated such sums as may be necessary out of the Highway Trust Fund to carry out this subsection. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

* * * * * * *

BICYCLE TRANSPORTATION

[SEC. 126.] *Sec. 126A.* Section 217 of title 23, United States Code, is amended to read as follows:

"§ 217. Bicycle transportation and pedestrian walkway

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvements of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

* * * * * * *

VEHICLE WEIGHT, LENGTH, AND WIDTH LIMITATIONS

SEC. 133. [(a)] section 127 of title 23 of the United States Code is amended to read:

"§ 127. Vehicle weight limitations—Interstate System

"(a) No funds authorized to be appropriated for any fiscal year under provision of the Federal-Aid Highway Act of 1956 shall be

apportioned to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolearances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided,* That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purpose of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

"(b) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway system to terminals and facilities for food, fuel, repairs and rest."

* * * * * * *

INNOVATIVE TECHNOLOGIES

Sec. 142. * * *

(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through [September 30, 1985] *September 30, 1986* to increase the Federal share as provided in sections 119, 120, and 144 of title 23, United States Code, by 5 per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106, of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

(c) The Secretary shall establish a procedure within ninety days of the date of enactment of this Act for increasing the Federal share under this section.

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USE OF HIGH OCCUPANCY LANES

SEC. 163. Notwithstanding any provision of this Act or any other law, no funds shall be [appropriated] *apportioned* for the construction or resurfacing of Federal aid highways which have lanes designated as carpool lanes unless the use of such lanes includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, the State may restrict such use by motorcycles if such use would create a safety hazard.

* * * * * * *

BUY AMERICA

[SEC. 156. (a) Notwithstanding any provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel and manufactured products used in such project are produced in the United States.]

Sec 165. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act, or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of

Transportation, whose total cost exceeds $500,000, unless steel and manufactured products used in such project are produced in the United States.

* * * * * * *

[REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

[SEC. 415. (a) Within 18 months after the date of enactment of this title, the Secretary, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

[(b) For the purposes of this section the term—

[(1) "Longer combination commercial motor vecicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of one hunderd and ten feet; and

[(2) "national intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

[(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

[(1) a specific plan for the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service, except that the Secretary shall not include in the plan any highway segment which because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

[(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

[(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

[(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

[(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles; and

[(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

[(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

[(e) In making the detailed report to Congress required by this section, the Secretary shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operation of such vehicles.]

PUBLIC LAW 98-205, 98TH CONGRESS

AN ACT To designate the Federal building to be constructed in Savannah, Georgia, as the "Juliette Gordon Low Federal Building"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building to be constructed at Telfair Square, Savannah, Georgia, shall hereafter be named and designated as the "Juliette Gordon Low Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Juliette Gordon Low Federal Building".

SEC. 2. (a) The Administrator of General Services (hereinafter referred to as the "Administrator") may accept and use contributions from individuals and private organizations for the design and construction of a memorial, to be located in or around the building referred to in the first section of this Act, commemorating the life and accomplishments of Juliette Gordon Low. The Administrator, in consultation with the chairman of the National Endowment for the Arts and the national president of the Girl Scouts of America, shall determine the appropriate form and location of such memorial, taking into account the cost of maintaining such memorial.

(b) The Administrator shall provide maintenance for such memorial.

[SEC. 3. Notwithstanding any other provision of law, the Secretary of Transportation, in cooperation with the Commonwealth of Virginia and the District of Columbia, shall carry out a demonstration project on Interstate Highways 95 and 395 in Virginia and the District of Columbia for a period of not less than 12 months commencing within 30 days after the District of Columbia begins

actual reconstruction of the George Mason bridge. The Commonwealth of Virginia and the District of Columbia shall restrict the use of the express lanes on such highways to buses, emergency vehicles, and other vehicles carrying four or more persons during the hours of 6 o'clock ante meridien to 9 o'clock ante meridien on Monday through Friday, exclusive of holidays, on northbound lanes and during the hours of 3:30 o'clock post meridiem to 6 o'clock post meridiem on Monday through Friday, exclusive of holidays, on southbound lanes during the demonstration period. The Secretary of Transportation, in consultation with the Commonwealth of Virginia and the District of Columbia, may adjust such hours and refine the demonstration to enhance safety, minimize congestion, and miximize the use of the facility. During the demonstration period, the Secretary of Transportatin, in cooperation with the Commonwealth of Virginia and the District of Columbia shall carry out an environmental assessment of the effects of the high occupancy vehicle restrictions, and shall, upon completion of such assessment, report to the Congress the results of the assessment and the demonstration project.]

Sec. 3. Notwithstanding any other provision of law, the Secretary of Transportation shall assist the Commonwealth of Virginia and the District of Columbia, in carrying out a demonstration project on Interstate Highways 95 and 395 in Virginia and the District of Columbia for a period of not less than twelve months commencing within thirty days after the District of Columbia completes reconstruction of the George Mason Bridge. The use of the express lanes on such highways shall be restricted under the experiment to buses, emergency vehicles, and other vehicles carrying four or more persons during the hours of 6 a.m. to 9:30 a.m. on Monday through Friday, exclusive of holidays, on northbound lanes and during the hours of 3:30 p.m. to 6 p.m. on Monday through Friday, exclusive of holidays, on southbound lanes during the demonstration period. Provided, that the Commonwealth of Virginia and the District of Columbia in the consultation with the Secretary of Transportation may adjust such hours and refine the demonstration to enhance safety, minimize congestion, and maximize the use of the facility. During the demonstration period, the Commonwealth of Virginia and the District of Columbia in consultation with the Secretary of Transportation shall carry out an environmental assessment of the effects of the high occupancy vehicle restrictions including, but not limited to, capacity of the facility, congestion on the facility and its approaches, modal choice in the corridor and air quality, and shall, upon completion of such assessment, report to the Congress the results of the assessment and the demonstration project.

* * * * * * *

PUBLIC LAW 98-229, 98TH CONGRESS

AN ACT To apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency under title 23, United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secre-

tary of Transportation shall apportion for the fiscal year ending September 30, 1985, one-half of the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the committee print numbered 98–10 of the Committee on Public Works and Transportation of the House of Representatives.

SEC. 2. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1984, one-half of the sums to be apportioned for such year under section 103(e)(4) of title 23, United States Code, for expenditure on substitute highway and transit projects, using the apportionment factors contained in the committee print numbered 98–11 of the Committee on Public Works and Transportation of the House of Representatives.

SEC. 3. In addition to any amounts authorized to be appropriated by section 125 of title 23, United States Code, for the fiscal year ending September 30, 1984, there is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), for such fiscal year $150,000,000 to carry out such section.

SEC. 4. The proviso in the first sentence of subsection (b) of section 125 of title 23, United States Code, limiting the aggregate amount of obligations for projects under such section, shall not apply to funds authorized to be appropriated by section 3 of this Act.

SEC. 5. A project to alleviate flooding conditions caused by an inadequate box culvert under an Interstate highway in the vicinity of Carencro, Louisiana—

(1) by removal of such box culvert and construction of one of more bridges, or

(2) by construction of drainage ditches,

at a cost not to exceed $2,000,000, shall be eligible for assistance under section 125 of title 23, United States Code.

SEC. 6. A project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, which was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide and which, until its destruction, had served as the only reasonable access between two cities and as the designated emergency evacuation route of one of such cities shall be eligible for assistance under section 125 of title 23, United States Code.

SEC. 7. Upon application by the State of Maryland, and after approval of withdrawal by the Secretary of Transportation of unbuilt portions of Interstate route I–83 in Baltimore, Maryland, under section 103(e)(4) of title 23, United States Code, the Secretary shall transfer *amounts requested by the State of Maryland not to exceed* $100,000,000 from the apportionment of such State under section 104(b)(5)(A) of such title to the apportionment of such State under section 104(b)(5)(B) of such title. Upon transfer of such funds, the estimate of the cost of completing substitute highway projects in such State prepared under section 103(e)(4) of such title shall be reduced by [$100,000,000.] *such amounts transferred.* Of funds apportioned to such State under section 104(b)(5)(B) of such title, [$100,000,000] *an amount equal to the amount transferred from*

section 103(e)(4) shall be obligated for resurfacing, restoring, rehabilitating, and reconstructing portions of such Interstate route open to traffic [.] *in Baltimore, Maryland.* Any funds transferred under this section shall continue to be available for expenditure in such State until the last day of the second fiscal year following the fiscal year in which such transfer is made. Any amount of funds so transferred which have not been obligated by such last day shall lapse and shall be made available by the Secretary for projects under section 118(b)(3) of such title.

○